REMARKS

In the Final Action dated March 14, 2005, Claims 1-16 are pending and are under consideration. Claims 1-16 have been rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Maher or Bhatia in view of MEDLINE AN 2000050292 (Kelly et al.) for the reasons given in the previously issued Official Action dated June 25, 2003.

This Response addresses the Examiner's sole rejections. Applicant respectfully submits that the present application is in condition for allowance or at least in better condition for appeal. Favorable consideration of all pending claims is therefore respectfully requested.

Applicant in this response has added Claim 17, which depends on Claims 1 and 2 and merely delineates the subject matter encompassed by Claims 1 and 2. Support can be found throughout the specification, e.g., on page 4, lines 11-15, and original Claims 1-2. No new matter is introduced.

Claims 1-16 are rejected under 35 U.S.C. §103(a) as allegedly obvious over Maher et al. (*Pancreas* 6(2): 168-74 (1991)) or Bhatia et al. (*Biochemical and Biophysical Research Communications* 246: 475-83 (1998)), and in view of Kelly, et al. (MEDLINE 2000050292, *International J. Experimental Path.*, 80 (4) 217-26, abstract, Aug. 1999), for the reasons given in the previous Official Action dated June 25, 2003.

The Examiner asserts that Kelly et al. disclose subcutaneous administration of CHB. The Examiner alleges that once a route of administration is known in the art it is within the skill of the artisan to select the optimum route of administration. The Examiner contends that subcutaneous administration would be advantageous because it is easier and more comfortable for the patient to administer a drug subcutaneously than to administer it via gavage or intravenously.

The Examiner contends that in the absence of a showing of unexpected results using this route of administration, it would be obvious to one of ordinary skill in the art to administer CHB subcutaneously.

In the first instance, Applicant submits that Kelly el al. is not prior art. Applicant observes that the priority date of the present application is August 30, 1999. The Kelly et al. reference emanates from the August 1999 issue of *International J. Experimental Path.* However, Applicant respectfully submits that the Kelly et al. reference was in fact published on September 14, 1999, which was after the priority date of the present application. In this connection, Applicant respectfully submits a copy of a letter from the journal publisher, Blackwell Publishing Ltd, Oxford, United Kingdom, which confirms the publication date of the August 1999 issue of *International J. Experimental Path.* See the enclosed copy as Exhibit A. Thus, Applicant respectfully submits that Kelly et al. is not a proper reference under 35 U.S.C. § 103 and withdrawal of the rejection based thereon is respectfully requested.

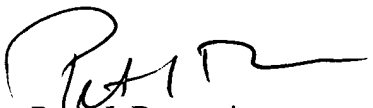
In addition, Applicant observes that the present invention is directed to a method of providing selective and non-regenerative apoptosis of pancreatic acinar cells in a subject by a single-dose, subcutaneous or intra-arterial administration of an effective amount of 1-cyano-2-hydroxy-3-butene (CHB). Applicant observes that Maher et al. only examined histology of the pancreas at 6 hours and hypothesized that the pancreas regenerated to normal, macroscopically, by 120 hours. Maher et al. do not describe apoptosis, which is recited in the present claims, but merely "degranulation of the acinar cells and lacy vacuolation of the supranuclear cytoplasm." Applicant observes that Maher et al.'s hypothesis is merely based on a limited observation of histology of cells up to 6 hours. Applicant further observes that Bhatia et al. merely disclose that CHB causes apoptosis of pancreatic acinar cells following a single dose given intravenously.

Neither of the Maher et al. nor Bhatia et al. references teach or suggest subcutaneous or intra-arterial administration of CHB as recited in the present claims, nor do they provide motivation to a person of ordinary skill in the art to employ subcutaneous or intra-arterial administration of CHB in the treatment of a diseased subject.

Accordingly, the rejection of Claims 1-16 under 35 U.S.C. §103(a) as allegedly obvious over Maher et al. or Bhatia et al. and in view of Kelly et al. is overcome and withdrawal thereof is respectfully requested.

In view of the foregoing amendments and remarks, it is firmly believed that the subject application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,



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Encl.: Exhibit A

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Dear Dr. Kelly

Re: Int'l Jnr'l Of Experimental Pathology

As per our telephone conversation on 10th January 2002.

Vol. 80 Issue 4.

I can confirm that this issue was published on the 14th September 1999.

Please do not hesitate to contact me if you require any further information.

Yours truly,

Natasha McIntosh
Journal Customer Service Advisor